

DISTRICT ATTORNEYS

Budget Summary							
Fund	2014-15 Base Year Doubled	2015-17 Governor	2015-17 Jt. Finance	Joint Finance Change to:			
				Governor		Base	
				Amount	Percent	Amount	Percent
GPR	\$92,592,200	\$88,252,300	\$88,760,000	\$507,700	0.6%	- \$3,832,200	- 4.1%
PR	<u>7,037,400</u>	<u>7,065,500</u>	<u>7,065,500</u>	<u>0</u>	<u>0.0</u>	<u>28,100</u>	<u>0.4</u>
TOTAL	\$99,629,600	\$95,317,800	\$95,825,500	\$507,700	0.5%	- \$3,804,100	- 3.8%

FTE Position Summary					
Fund	2014-15 Base	2016-17 Governor	2016-17 Jt. Finance	Joint Finance Change to:	
				Governor	2014-15 Base
GPR	383.95	383.95	385.15	1.20	1.20
PR	<u>51.00</u>	<u>41.00</u>	<u>41.00</u>	<u>0.00</u>	<u>- 10.00</u>
TOTAL	434.95	424.95	426.15	1.20	-8.80

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 260]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Net Change
GPR	\$3,057,300	- \$132,700	\$2,924,600
PR	<u>1,385,000</u>	<u>0</u>	<u>1,385,000</u>
Total	\$4,442,300	- \$132,700	\$4,309,600

Governor: Provide adjustments to the base totaling \$1,232,100 GPR and \$726,700 PR in 2015-16, and \$1,825,200 GPR and \$658,300 PR in 2016-17. Adjustments are for: (a) turnover reduction (-\$210,600 GPR annually); (b) removal of non-continuing elements from the base (-\$68,400 PR in 2016-17); (c) full funding of continuing position salaries and fringe benefits (\$1,347,900 GPR and \$726,700 PR in 2015-16, and \$1,941,000 GPR and \$726,700 PR in 2016-17); and (d) night and weekend differential pay (\$94,800 GPR annually).

Joint Finance: Modify funding provided for the full funding of continuing position

salaries and fringe benefits by \$174,400 GPR in 2015-16 and -\$307,100 GPR in 2016-17 to account for inadvertent errors made while calculating salary figures for District Attorneys, assistant district attorneys, and deputy district attorneys.

2. ELIMINATE BASE FUNDING FOR PAY PROGRESSION [LFB Paper 261]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Net Change
GPR	- \$7,397,200	\$556,900	- \$6,840,300

Governor: Eliminate base funding for pay progression for assistant district attorneys (ADA) and deputy district attorneys (DDA). Under 2011 Act 238, a salary adjustments GPR appropriation was created to supplement the agency's salary and fringe benefit funding in order to support annual salary adjustments for ADAs and DDAs under the pay progression plan. Base funding for the salary adjustments appropriation is \$3,698,600. While the bill would eliminate base funding for pay progression for ADAs and DDAs, the bill would not eliminate the pay progression appropriation and statutory structure. However, any funding for pay progression salary adjustments in the 2015-17 biennium would need to be supported from within the agency's budget or from compensation reserves, or both.

Under 2011 Act 238, ADAs are compensated pursuant to a merit-based pay progression plan that consists of 17 hourly salary steps, with each step equal to one seventeenth of the difference between the prosecutor's lowest possible annual salary (\$49,430) and the highest possible annual salary (\$119,472). Deputy district attorneys are also compensated based on the pay progression plan under 2013 Act 20. Notwithstanding the creation of a 17 hourly salary step pay progression plan, supervising district attorneys may: (a) deny annual salary increases to individual ADAs and DDAs; and (b) increase the salary of individual ADAs and DDAs by up to 10% per year.

Joint Finance: Provide \$556,900 in 2016-17 in order to support salary adjustments for eligible ADAs and DDAs under the pay progression plan. The funding is intended to support a 2% average salary adjustment for eligible ADAs and DDAs under the pay progression plan in 2016-17.

3. REMOVE PERMANENT POSITIONS FROM THE BASE

	Funding	Positions
PR	- \$1,367,600	- 10.00

Governor/Joint Finance: Reduce expenditure and position authority by \$683,800 (\$492,400 in salaries and \$191,400 in fringe benefits) annually and 10.0 prosecutor positions for the District Attorney's gifts and grants continuing PR appropriation to eliminate positions for which local and federal grant funding to support the positions is no longer available. The 10.0 positions are comprised of: (a) 1.0 prosecutor position in Brown County; (b) 1.0 prosecutor position in Dane County; (c) 6.0 prosecutor positions in Milwaukee County; and (d) 2.0 prosecutor positions in Saint Croix County.

4. STATE PROSECUTORS OFFICE TRANSFER [LFB Paper 263]

Governor: Transfer the State Prosecutors Office from the Department of Administration to the Department of Justice. The State Prosecutors Office is responsible for coordinating administrative duties relating to the district attorney offices. Major responsibilities of the Office include: (a) payroll; (b) fringe benefits; (c) budgets; (d) billing counties for grant-funded positions; (e) collective bargaining (restricted to salary increases only); (f) advising elected DAs on their rights and responsibilities under the state compensation plan, Office of State Employment Relations administrative code, and the statutes; (g) producing fiscal notes and bill analyses for legislative proposals affecting the DAs; and (h) serving as a central point of contact for all prosecutors. Funding and position authority associated with the transfer of the State Prosecutors Office totals \$181,700 GPR and 1.0 GPR position. [See "Justice" and "Administration -- Transfers."]

Joint Finance: Delete provision.

5. SPECIAL PROSECUTOR APPOINTMENTS [LFB Paper 262]

Governor: Modify current law related to special prosecutor appointments as identified below. Under current law, a court may appoint an attorney as a special prosecutor to assist the District Attorney (DA) in the following situations: (a) the prosecution of persons charged with a crime; (b) grand jury proceedings; (c) John Doe proceedings; (d) sexually violent person commitment proceedings; and (e) investigations.

Reason for Appointment. Under current law, a court, on its own motion or at the request of a DA, may appoint a special prosecutor if the DA is physically unable to attend to his or her duties or the DA has a mental incapacity that impairs the DA's ability to substantially perform his or her duties. A court may also appoint a special prosecutor if: (a) there is no DA for the county; (b) the DA is absent from the county; (c) the DA has acted as the attorney for the accused party in a matter relating to which the accused stands to be tried; (d) the DA is near of kin to the accused party; (e) the DA is serving in the U.S. armed forces; (f) the DA stands charged with a crime; (g) the DA determines that a conflict of interest exists with the DA or the DA's staff; or (h) a complaint received by the court relates to the conduct of the DA to whom the judge would normally refer the complaint.

The bill would modify current law related to the appointment of a special prosecutor if a DA is physically unable to attend to his or her duties to specify that a court may appoint a special prosecutor in such circumstance, only if the DA is unable to attend to his or her duties due to a health issue or a mental incapacity that impairs the DA's ability to substantially perform his or her duties.

Role of the Department of Justice. Modify current law to specify that a court may appoint a special prosecutor only if the judge, or the requesting DA, submits an affidavit to the Department of Justice attesting that one of the conditions outlined in "reason for appointment" above, exists. Further, require that the Department of Justice approve the court's appointment of the special prosecutor prior to the court fixing the amount of compensation for the special

prosecutor. Under current law, no affidavit is required.

Payment of Interest. Under current law, payments to special prosecutors made later than 30 days after the receipt of a properly completed invoice or the completion of the attorney's services, whichever is later, are subject to a 12% interest rate compounded monthly.

The bill would provide that payments to special prosecutors made more than 30 days after the receipt of a properly completed invoice or the completion of the attorney's services, whichever is later, are not subject to an interest fee. This provision would first apply to all appointments made on the effective date of the budget bill.

Joint Finance: Modify the Governor's recommendation as follows:

Reason for Appointment. Specify that a special prosecutor may be appointed by the court if a District Attorney, assistant district attorney, or deputy district attorney in a District Attorney office is on maternity or paternity leave.

Role of the Department of Justice. As a result of deleting the transfer of the State Prosecutors Office to DOJ (item #4), require that the affidavit prepared by the court or the requesting District Attorney be submitted to the Department of Administration, rather than the Department of Justice. Further, require that the Department of Administration, rather than the Department of Justice, approve the court's appointment of a special prosecutor prior to the court fixing the amount of compensation for the special prosecutor.

Payment of Interest. Delete the provision exempting the District Attorneys from incurring interest fees on payments to special prosecutors. Instead, increase the number of days that the District Attorneys have to pay special prosecutors without incurring interest fees from 30 days to 120 days. As a result, payments to special prosecutors made later than 120 days after the receipt of a properly completed invoice or the completion of the attorney's services, whichever is later, would be subject to a 12% annual interest rate compounded monthly. The extension of time that the District Attorneys would have to make payments to special prosecutors without incurring interest fees would first apply to appointments made on the effective date of the budget bill.

6. FUNDING FOR MILWAUKEE COUNTY CLERKS

PR	\$10,700
----	----------

Governor/Joint Finance: Provide \$3,600 in 2015-16 and \$7,100 in 2016-17 to fully fund the salary and fringe benefit costs of 6.5 clerks in the Milwaukee County District Attorney's office who provide clerical services to prosecutors that handle violent crime and felony drug violations, as well as violations relating to the unlawful possession or use of a firearm. Program revenue funding for the clerks is generated from a \$3.50 special prosecution clerks surcharge that is assessed only in Milwaukee. The surcharge is generally assessed in Milwaukee when a person: (a) pays a fee for a civil, small claims, forfeiture, wage earner, or garnishment action; or (b) files an appeal from municipal court, a third party complaint in a civil action, or a counterclaim or cross complaint in a small claims action. Base funding for the clerks is \$354,000.

7. INCREASE AUTHORIZED DEPUTY DISTRICT ATTORNEYS

Governor/Joint Finance: Modify current law to authorize district attorneys that serve a prosecutorial unit having a population of 500,000 or more to appoint up to seven deputy district attorneys. Under current law, district attorneys that serve a prosecutorial unit having a population of 500,000 or more may only appoint up to five deputy district attorneys. The population of a prosecutorial unit is based on the most recent population estimate performed by the Department of Administration, pursuant to s. 16.96 of the statutes. Currently, the two prosecutorial units that have a population of 500,000 or more are Milwaukee County and Dane County. In addition to prosecuting cases, deputy district attorneys perform supervisory and administrative duties.

8. LAPSE REQUIREMENT

Governor/Joint Finance: Specify that the 2013 Act 145 requirement that the agency lapse \$43,300 to the general fund from the unencumbered balances of GPR and PR appropriations in 2015-16 would also apply to 2016-17. [See "Budget Management and Compensation Reserves."]

9. INCREASE PART-TIME DISTRICT ATTORNEYS TO FULL-TIME

	Funding	Positions
GPR	\$83,500	1.20

Joint Finance: Provide \$83,500 and 1.2 DA positions in 2016-17 in order to increase part-time elected DAs in Florence County, Buffalo County, and Pepin County to full-time, beginning January 2, 2017. [Note that January 2, 2017, will be the first day of the elected District Attorneys' four-year term of office beginning in 2017.] Further, effective January 2, 2017, repeal the current law requirement that the DAs for Florence County, Buffalo County, and Pepin County serve on a part-time basis. As a result, the DAs for Florence County, Buffalo County, and Pepin County must serve on a full-time basis beginning January 2, 2017. Currently, Florence County has a 0.5 full-time equivalent DA, Buffalo County has a 0.5 full-time equivalent DA, and Pepin County has a 0.8 full-time equivalent DA.